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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/802,025

03/16/2004

John D. Zukley

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2658

22474 7590 05/02/2007

CLEMENTS WALKER  
1901 ROXBOROUGH ROAD  
SUITE 300  
CHARLOTTE, NC 28211

EXAMINER

RACHUBA, MAURINA T

ART UNIT

PAPER NUMBER

3723

MAIL DATE

DELIVERY MODE

05/02/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/802,025

Applicant(s)

ZUKLEY, JOHN D.

Examiner

Maurina Rachuba

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-8, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerrard et al, GB 2 288 363, as set forth in the Office action mailed 01 November 2006.

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrard et al, '363. '363 discloses using a computer to control all the steps of the method. It would have been obvious to have eliminated computer control of any step where the control was not desired, see *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965) (Omission of additional framework and axle which served to increase the cargo carrying capacity of prior art mobile fluid carrying unit would have been obvious if this feature was not desired.); and *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (deleting a prior art switch member and thereby eliminating its function was an obvious expedient).
5. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrard et al, '363 in view of La Velle et al, 3,087,483, as set forth in the Office action mailed 01 November 2006.
6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrard et al, '363 in view of Seeley, 4,557,246 as set forth in the Office action mailed 01 November 2006.

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7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrard et al, '363 as applied to claim 17 above, and further in view of La Velle et al, 3,087,483. '383 does not disclose that the cutting devices are saws. '483 teaches that it is old and well known to use saws to clean mortar from brick. It would have been obvious to have provided '363 with the saws taught by '483, column 1, lines 43-58 and column 2, lines 13-15, to quickly chip away mortar from all sides of the brick.

8. Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrard et al, '363, as applied to claim 17 above, and further in view of Seeley, 4,557,246. '363 does not disclose stacking the bricks onto a pallet, or the apparatus comprising a movable trailer that houses the apparatus. '246, in a similar brick cleaning apparatus, teaches stacking the cleaned bricks on a pallet. It would have been obvious to one of ordinary skill in the art to have provided '363 with a step of stacking the cleaned bricks onto a pallet, as taught by '246, column 4, lines 56-60, to allow the bricks to be efficiently transported to a worksite. Further, '246 teaches using a trailer to house the apparatus, figure 3. It would have been obvious to one of ordinary skill to have housed the apparatus of '363 in a movable trailer as taught by '246, column 2, lines 56-59, to allow the apparatus to be moved to a site where used bricks are available.

Regarding claim 20, as broadly claimed, '363 disclose that the second and third cutting devices are movable in three dimensions, see for example page 2, paragraph 6, which discusses that the cutting devices are movable relative to the corresponding brick surface. Without further structure that would differentiate '363 from the claimed

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invention, it is the examiner's position that '363 discloses moving the cutting means in three dimensions.

### ***Response to Arguments***

9. Applicant's arguments filed 31 January 2007 have been fully considered but they are not persuasive. Applicant argues that Gerrard simultaneously strips off mortar from all four surfaces of the brick. It is noted that Gerrard, page 2, discloses that the scraping surfaces may be separate surfaces. As each separate surface interacts separately with each separate brick surface, it is the examiner's position that each interaction comprises a separate step, as broadly claimed by applicant. That applicant may have other separate steps, or other defining steps, is moot, such have not been claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The examiner agrees that claim 17 is not anticipated by Gerrard, however, it is obvious over Gerrard for the reasons set forth above.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maurina Rachuba whose telephone number is 571 272 4493. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272 4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Maurina Rachuba  
Primary Examiner  
Art Unit 3723

*[Handwritten signature]*  
4/27/07